

AMENDED IN ASSEMBLY APRIL 24, 2007

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1385

**Introduced by Assembly Members Garrick, Sharon Runner, and
Spitzer**

**(Coauthors: Assembly Members Berryhill, Fuller, Gaines, Maze,
Nakanishi, and Parra)**

February 23, 2007

An act to amend ~~Sections 12810, 13202.5, 40000.13, 42009, and
42010~~ *Section 40000.13* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1385, as amended, Garrick. Vehicles: DUI: penalties.

(1) Existing law provides that a violation of the Vehicle Code is an infraction unless otherwise provided.

This bill would provide that a person operating a motorized scooter while under the influence of an alcoholic beverage or a drug, upon conviction, is guilty of a misdemeanor. By changing this violation to a misdemeanor, the bill would change the penalty thereby imposing a state-mandated local program.

~~(2) Existing law provides that certain violations of the Vehicle Code that are committed within a highway construction or maintenance area during specified times or a Safety Enhancement-Double Fine Zone are subject to a fine enhancement.~~

~~This bill would subject a person under the age of 21 years, who is convicted of driving with a blood alcohol concentration of 0.01 percent~~

or greater, as measured by a preliminary alcohol screening test, or 0.05 percent or greater by weight, to the fine enhancement.

(3) Existing law provides that for a person under the age of 21 years, but 13 years of age or older, who is convicted of certain specified offenses would have his or her driving privileges suspended for one year. If that person does not have the privilege to drive, the Department of Motor Vehicles would delay issuing the privilege to drive to him or her for one year subsequent to the time when he or she becomes legally eligible to drive.

This bill would provide that those persons, if convicted of driving with a blood alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, would be subject to the above penalty.

(4) Existing law provides that a violation of the provision prohibiting a person under the age of 21 years from driving with a blood alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, would not result in a violation point count.

This bill would repeal that exception.

(5)

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 12810 of the Vehicle Code is amended~~
- 2 ~~to read:~~
- 3 ~~12810. In determining the violation point count, the following~~
- 4 ~~shall apply:~~
- 5 ~~(a) A conviction of failure to stop in the event of an accident in~~
- 6 ~~violation of Section 20001 or 20002 shall be given a value of two~~
- 7 ~~points.~~
- 8 ~~(b) A conviction of a violation of Section 23152 or 23153 shall~~
- 9 ~~be given a value of two points.~~
- 10 ~~(c) A conviction of reckless driving shall be given a value of~~
- 11 ~~two points.~~

1 ~~(d) (1) A conviction of a violation of subdivision (c) of Section~~
2 ~~192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision~~
3 ~~(b) of Section 21651, subdivision (b) of Section 22348, subdivision~~
4 ~~(a) or (c) of Section 23109, or Section 31602 of this code, shall be~~
5 ~~given a value of two points.~~

6 ~~(2) A conviction of a violation of subdivision (a) or (b) of~~
7 ~~Section 23140 shall be given a value of two points.~~

8 ~~(e) A conviction of a violation of Section 14601, 14601.1,~~
9 ~~14601.2, 14601.3, or 14601.5 shall be given a value of two points.~~

10 ~~(f) Except as provided in subdivision (i), any other traffic~~
11 ~~conviction involving the safe operation of a motor vehicle upon~~
12 ~~the highway shall be given a value of one point.~~

13 ~~(g) A traffic accident in which the operator is deemed by the~~
14 ~~department to be responsible shall be given a value of one point.~~

15 ~~(h) A conviction of a violation of Section 27360 or 27360.5~~
16 ~~shall be given a value of one point.~~

17 ~~(i) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision~~
18 ~~(b) of Section 40001 shall not result in a violation point count~~
19 ~~being given to the driver if the driver is not the owner of the~~
20 ~~vehicle.~~

21 ~~(2) A conviction of a violation of paragraph (1) or (2) of~~
22 ~~subdivision (b) of Section 12814.6, subdivision (a) of Section~~
23 ~~21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or~~
24 ~~26707 shall not be given a violation point count.~~

25 ~~(3) A violation of subdivision (d) of Section 21712 shall not~~
26 ~~result in a violation point count.~~

27 ~~(4) A violation of Section 38301.3 shall not result in a violation~~
28 ~~point count.~~

29 ~~(j) A conviction for only one violation arising from one occasion~~
30 ~~of arrest or citation shall be counted in determining the violation~~
31 ~~point count for the purposes of this section.~~

32 ~~SEC. 2. Section 13202.5 of the Vehicle Code is amended to~~
33 ~~read:~~

34 ~~13202.5. (a) For each conviction of a person for an offense~~
35 ~~specified in subdivision (d), committed while the person was under~~
36 ~~the age of 21 years, but 13 years of age or older, the court shall~~
37 ~~suspend the person's driving privilege for one year. If the person~~
38 ~~convicted does not yet have the privilege to drive, the court shall~~
39 ~~order the department to delay issuing the privilege to drive for one~~
40 ~~year subsequent to the time the person becomes legally eligible to~~

1 drive. However, if there is no further conviction for an offense
2 specified in subdivision (d) in a 12-month period after the
3 conviction, the court, upon petition of the person affected, may
4 modify the order imposing the delay of the privilege. For each
5 successive offense, the court shall suspend the person's driving
6 privilege for those possessing a license or delay the eligibility for
7 those not in possession of a license at the time of their conviction
8 for one additional year.

9 As used in this section, the term "conviction" includes the
10 findings in juvenile proceedings specified in Section 13105.

11 (b) Whenever the court suspends driving privileges pursuant to
12 subdivision (a), the court in which the conviction is had shall
13 require all driver's licenses held by the person to be surrendered
14 to the court. The court shall within 10 days following the conviction
15 transmit certified abstract of the conviction, together with any
16 driver's licenses surrendered, to the department.

17 (c) (1) After a court has issued an order suspending or delaying
18 driving privileges pursuant to subdivision (a), the court, upon
19 petition of the person affected, may review the order and may
20 impose restrictions on the person's privilege to drive based upon
21 a showing of a critical need to drive.

22 (2) As used in this section, "critical need to drive" means the
23 circumstances which are required to be shown for the issuance of
24 a junior permit pursuant to Section 12513.

25 (3) The restriction shall remain in effect for the balance of the
26 period of suspension or restriction in this section. The court shall
27 notify the department of a modification within 10 days of the order
28 of modification.

29 (d) This section applies to violations involving controlled
30 substances or alcohol contained in the following provisions:

31 (1) Article 7 (commencing with Section 4211) of Chapter 9 of
32 Division 2 of, and Sections 25658, 25658.5, 25661, and 25662 of,
33 the Business and Professions Code.

34 (2) Division 10 (commencing with Section 11000) of the Health
35 and Safety Code.

36 (3) Section 191.5, paragraph (3) of subdivision (c) of Section
37 192, subdivision (c) or (d) of Section 192.5, and subdivision (f)
38 of Section 647 of the Penal Code.

1 ~~(4) Section 23103 when subject to Section 23103.5, Section~~
2 ~~23136, Section 23140, and Article 2 (commencing with Section~~
3 ~~23152) of Chapter 12 of Division 11.~~

4 ~~(e) Suspension, restriction, or delay of driving privileges~~
5 ~~pursuant to this section shall be in addition to any penalty imposed~~
6 ~~upon conviction of a violation specified in subdivision (d).~~

7 ~~SEC. 3.~~

8 *SECTION 1.* Section 40000.13 of the Vehicle Code, as amended
9 by Section 5 of Chapter 614 of the Statutes of 2006, is amended
10 to read:

11 40000.13. A violation of any of the following provisions is a
12 misdemeanor, and not an infraction:

- 13 (a) Section 16560, relating to interstate highway carriers.
14 (b) Sections 20002 and 20003, relating to duties at accidents.
15 (c) Section 21200.5, relating to riding a bicycle while under the
16 influence of an alcoholic beverage or a drug.
17 (d) Section 21221.5, relating to operating a motorized scooter
18 while under the influence of an alcoholic beverage or a drug.
19 (e) Section 21651, subdivision (b), relating to wrong-way driving
20 on divided highways.
21 (f) Section 21655.9, subdivision (c), relating to illegal use of
22 decals, labels, or other identifiers.
23 (g) Section 22520.5, a second or subsequent conviction of an
24 offense relating to vending on or near freeways.
25 (h) Section 22520.6, a second or subsequent conviction of an
26 offense relating to roadside rest areas and vista points.
27 (i) This section shall remain in effect only until January 1, 2011,
28 or only until the date that the Secretary of State receives the notice
29 from the Director of Transportation as described in Section 5205.5,
30 whichever occurs first, and as of that date is repealed.

31 ~~SEC. 4.~~

32 *SEC. 2.* Section 40000.13 of the Vehicle Code, as amended by
33 Section 6 of Chapter 614 of the Statutes of 2006, is amended to
34 read:

35 40000.13. A violation of any of the following provisions is a
36 misdemeanor, and not an infraction:

- 37 (a) Section 16560, relating to interstate highway carriers.
38 (b) Sections 20002 and 20003, relating to duties at accidents.
39 (c) Section 21200.5, relating to riding a bicycle while under the
40 influence of an alcoholic beverage or a drug.

(d) Section 21221.5, relating to operating a motorized scooter while under the influence of an alcoholic beverage or a drug.

(e) Section 21651, subdivision (b), relating to wrong-way driving on divided highways.

(f) Section 22520.5, a second or subsequent conviction of an offense relating to vending on or near freeways.

(g) Section 22520.6, a second or subsequent conviction of an offense relating to roadside rest areas and vista points.

(h) This section shall become operative on January 1, 2011, or on the date that the Secretary of State receives the notice from the Director of Transportation as described in Section 5205.5, whichever occurs first.

~~SEC. 5. Section 42009 of the Vehicle Code is amended to read:~~
~~42009. (a) For an offense specified in subdivision (b), committed by the driver of a vehicle within a highway construction or maintenance area, during a time when traffic is regulated or restricted through or around that area pursuant to Section 21367, when the highway construction or maintenance is actually being performed in the area by workers acting in their official capacity, the fine, in a misdemeanor case, shall be double the amount otherwise prescribed. In an infraction case, the fine shall be one category higher than the penalty otherwise prescribed by the uniform traffic penalty schedule established pursuant to Section 40310.~~

~~(b) A violation of any of the following provisions is an offense which is subject to subdivision (a):~~

~~(1) Section 21367, relating to regulation of traffic at a construction site.~~

~~(2) Article 3 (commencing with Section 21450) of Chapter 2 of Division 11, relating to obedience to traffic devices.~~

~~(3) Chapter 3 (commencing with Section 21650) of Division 11, relating to driving, overtaking, and passing.~~

~~(4) Chapter 4 (commencing with Section 21800) of Division 11, relating to yielding the right-of-way.~~

~~(5) Chapter 6 (commencing with Section 22100) of Division 11, relating to turning and stopping and turn signals.~~

~~(6) Chapter 7 (commencing with Section 22348) of Division 11, relating to speed limits.~~

~~(7) Chapter 8 (commencing with Section 22450) of Division 11, relating to special traffic stops.~~

1 ~~(8) Section 23103, relating to reckless driving.~~

2 ~~(9) Section 23104, relating to reckless driving which results in~~
3 ~~bodily injury to another.~~

4 ~~(10) Section 23109, relating to speed contests.~~

5 ~~(11) Section 23136, relating to persons under 21 years of age~~
6 ~~driving with a blood alcohol concentration of 0.01 percent or~~
7 ~~greater.~~

8 ~~(12) Section 23140, relating to persons under 21 years of age~~
9 ~~driving with a blood alcohol concentration of 0.05 percent or~~
10 ~~greater.~~

11 ~~(13) Section 23152, relating to driving under the influence of~~
12 ~~alcohol or a controlled substance, or a violation of Section 23103,~~
13 ~~as specified in Section 23103.5, relating to alcohol-related reckless~~
14 ~~driving.~~

15 ~~(14) Section 23153, relating to driving under the influence of~~
16 ~~alcohol or a controlled substance, which results in bodily injury~~
17 ~~to another.~~

18 ~~(15) Section 23220, relating to drinking while driving.~~

19 ~~(16) Section 23221, relating to drinking in a motor vehicle while~~
20 ~~on the highway.~~

21 ~~(17) Section 23222, relating to driving while possessing an open~~
22 ~~alcoholic beverage container.~~

23 ~~(18) Section 23223, relating to being in a vehicle on the highway~~
24 ~~while possessing an open alcoholic beverage container.~~

25 ~~(19) Section 23224, relating to being a driver or passenger under~~
26 ~~21 years of age possessing an open alcoholic beverage container.~~

27 ~~(20) Section 23225, relating to being the owner or driver of a~~
28 ~~vehicle in which there is an open alcoholic beverage container.~~

29 ~~(21) Section 23226, relating to being a passenger in a vehicle~~
30 ~~in which there is an open alcoholic beverage container.~~

31 ~~(e) This section applies only when construction or maintenance~~
32 ~~work is actually being performed by workers, and there are work~~
33 ~~zone traffic control devices, traffic controls or warning signs, or~~
34 ~~any combination of those, to notify motorists and pedestrians of~~
35 ~~construction or maintenance workers in the area.~~

36 ~~SEC. 6. Section 42010 of the Vehicle Code is amended to read:~~

37 ~~42010. (a) For an offense specified in subdivision (b) that is~~
38 ~~committed by the driver of a vehicle within an area that has been~~
39 ~~designated as a Safety Enhancement Double Fine Zone pursuant~~
40 ~~to Section 97 and following of the Streets and Highways Code,~~

1 the fine, in a misdemeanor case, shall be double the amount
2 otherwise prescribed, and, in an infraction case, the fine shall be
3 one category higher than the penalty otherwise prescribed by the
4 uniform traffic penalty schedule established pursuant to Section
5 40310.

6 (b) A violation of any of the following provisions is an offense
7 that is subject to subdivision (a):

8 (1) Chapter 3 (commencing with Section 21650) of Division
9 11, relating to driving, overtaking, and passing.

10 (2) Chapter 7 (commencing with Section 22348) of Division
11 11, relating to speed limits.

12 (3) Section 23103, relating to reckless driving.

13 (4) Section 23104, relating to reckless driving that results in
14 bodily injury to another.

15 (5) Section 23109, relating to speed contests.

16 (6) Section 23136, relating to persons under 21 years of age
17 driving with a blood alcohol concentration of 0.01 percent or
18 greater.

19 (7) Section 23140, relating to persons under 21 years of age
20 driving with a blood alcohol concentration of 0.05 percent or
21 greater.

22 (8) Section 23152, relating to driving under the influence of
23 alcohol or a controlled substance, or a violation of Section 23103,
24 as specified in Section 23103.5, relating to alcohol-related reckless
25 driving.

26 (9) Section 23153, relating to driving under the influence of
27 alcohol or a controlled substance, which results in bodily injury
28 to another.

29 (10) Section 23220, relating to drinking while driving.

30 (11) Section 23221, relating to drinking in a motor vehicle while
31 on the highway.

32 (12) Section 23222, relating to driving while possessing an open
33 alcoholic beverage container.

34 (13) Section 23223, relating to being in a vehicle on the highway
35 while possessing an open alcoholic beverage container.

36 (14) Section 23224, relating to being a driver or passenger under
37 21 years of age possessing an open alcoholic beverage container.

38 (15) Section 23225, relating to being the owner or driver of a
39 vehicle in which there is an open alcoholic beverage container.

1 ~~(16) Section 23226, relating to being a passenger in a vehicle~~
2 ~~in which there is an open alcoholic beverage container.~~

3 ~~(e) This section applies only when traffic controls or warning~~
4 ~~signs have been placed pursuant to Section 97 or 97.1 of the Streets~~
5 ~~and Highways Code.~~

6 ~~(d) (1) Notwithstanding any other provision of law, the~~
7 ~~enhanced fine imposed pursuant to this section shall be based only~~
8 ~~on the base fine imposed for the underlying offense and shall not~~
9 ~~include any other enhancements imposed pursuant to law.~~

10 ~~(2) Notwithstanding any other provision of law, any additional~~
11 ~~penalty, forfeiture, or assessment imposed by any other statute~~
12 ~~shall be based on the amount of the base fine before enhancement~~
13 ~~or doubling and shall not be based on the amount of the enhanced~~
14 ~~fine imposed pursuant to this section.~~

15 ~~SEC. 7.~~

16 ~~SEC. 3.~~ No reimbursement is required by this act pursuant to
17 ~~Section 6 of Article XIII B of the California Constitution because~~
18 ~~the only costs that may be incurred by a local agency or school~~
19 ~~district will be incurred because this act creates a new crime or~~
20 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
21 ~~for a crime or infraction, within the meaning of Section 17556 of~~
22 ~~the Government Code, or changes the definition of a crime within~~
23 ~~the meaning of Section 6 of Article XIII B of the California~~
24 ~~Constitution.~~